

1                                    Michael Cody, sworn

2                                    Direct Examination by Mr. Kelly

3        Q        Mr. Cody, will you spell your last name for us, please.

4        A        C O D Y.

5        Q        Where do you reside, sir?

6        A        Hanover.

7        Q        How old a person are you, Mr. Cody?

8        A        Twenty-eight.

9        Q        Are you married or single, sir?

10      A        I'm divorced.

11      Q        Do you have any children, Mr. Cody?

12      A        Yes, I do.

13      Q        And how many?

14      A        One.

15      Q        And how old is your child?

16      A        She's eight years old.

17      Q        Do you have legal custody over this child?

18      A        Yes, I do.

19      Q        Are you employed at the present time, sir?

20      A        Yes, I am.

21      Q        What do you do?

22      A        I'm a paralegal working for an attorney.

23      Q        All right. Do you go to school Mr. Cody?

24      A        Yes, I am finishing up my undergrad law work, senior.

25      Q        Where do you go to school, sir?

1 A Suffolk University.

2 Q And what is your major or field of study?

3 A Law.

4 Q Are you here this morning, Mr. Cody, pursuant to a  
5 subpoena issued by this Court?

6 A Yes, I am.

7 Q Mr. Cody, do you know an Alfred Trenkler of Milton?

8 A Yes, I do.

9 Q And how do you know him, sir?

10 A He was a companion of mine from early 1980 to about 1983  
11 and a half.

12 Q He was a friend of yours?

13 A Yes.

14 Q And over what period of time did you have a friendship or  
15 association with Mr. Trenkler?

16 A Approximately about the age of 15 and a half, 9th Grade  
17 high school until about 18.

18 Q Three or four years?

19 A Yes.

20 Q During the course of your friendship with the defendant,  
21 did you take any trips out of state with him, sir?

22 A Several.

23 Q And where did you go, for example, what places?

24 A The first trip was to California for approximately eight  
25 or nine days.

1 Q Where else?

2 A The second trip would have been to Fort Lauderdale,  
3 Florida, for the spring break; and the third trip, a ski trip  
4 for about four days, I believe.

5 Q And the times you went to California and Florida, how did  
6 you get there, sir?

7 A By plane.

8 Q And when you went to those locations where did you stay?

9 A At a hotel in California. And I believe somebody's house  
10 he was acquainted with.

11 Q And did you pay for these trips, Mr. Cody?

12 A No, I did not.

13 Q Who paid for the trips?

14 A I believe Mr. Trenkler did.

15 Q By the way, sir, do you see the Alfred Trenkler that you  
16 know in the courtroom here this morning?

17 A Yes, I do.

18 Q Could you point him out for us, please?

19 A He's the second man from the right end table.

20 MR. KELLY: Your Honor, the record would indicate he  
21 has identified the defendant.

22 THE COURT: Yes.

23 Q Over the period time that you had a friendship with the  
24 Defendant Mr. Cody, other than taking trips with him, did he  
25 provide you with any other items?

1 A Yes.

2 MR. SEGAL: I object on relevance grounds.

3 MR. KELLY: I think I can connect it up.

4 THE COURT: I will allow it on the representation  
5 that it will be connected.

6 A Yes. He supplied me with basically anything wanted,  
7 clothes, cars, moneys, furnishing, furniture for my  
8 apartment.

9 Q You mentioned that he provided with you a car?

10 A Yes. Two cars.

11 Q And when did he provide you with a car?

12 A At the time I met him I had not had my license. And I  
13 was anxious to get it, but it required driver's ed. It was  
14 costly. He said he would pay for it and he did. And at the  
15 time I received my license, once I complete my driver's ed, he  
16 furnished me with a car.

17 Q What kind of a car?

18 A A 1977 or 1978 Thunderbird.

19 Q And how much what was the car worth, if you know?

20 A Approximately \$5,000.

21 MR. SEGAL: I object and move to strike. I don't see  
22 the relevance of any of this, your Honor.

23 THE COURT: Well, I have to rely on the government,  
24 in its representation, that it will connect it. It is being  
25 admitted de bene only until it is connected. That means the

1 evidence is conditional subject to its being connected to the  
2 having to do with this case. Let's do it fast.

3 MR. KELLY: Yes, your Honor.

4 Q How long did you have this car, Mr. Cody?

5 A Approximately six months.

6 Q Where was the defendant residing during the period of  
7 time that you had a relationship with him, sir?

8 A He was living with his parents, on White Lawn Ave. in  
9 Milton.

10 Q Did any members of your family meet the defendant during  
11 this time frame?

12 A No, never. That was --

13 Q Just you answered my question, sir. What business or  
14 field or employment was the defendant in during the time that  
15 you knew him, sir?

16 A He worked with electronics. He also worked for a  
17 television production station. And did some side jobs, light  
18 shows, things of that nature.

19 Q Did you ever visit any defendant's job sites?

20 A Yes.

21 Q Where did you, do you recall any specific towns?

22 A Yes, one was in Andover. It was a tower, a receiving  
23 tower, where he had put some devices on; several locations to  
24 that effect, where he would drive me to maybe Plymouth,  
25 Duxbury, to climbing towers, to Rhode Island, to the same

1 thing, towers.

2 Q Did any of these job sites have any storage areas, to  
3 your memory, sir?

4 MR. SEGAL: I'm going to object, again, to the  
5 relevance, particularly the time frame, '80 to' 83.

6 THE COURT: May I see counsel, please.

7 [Conference at the bench, as follows:

8 THE COURT: Is this --

9 MR. KELLY: The points that the government deems  
10 relevant here, in trying to adduce from this testimony, is  
11 this gentleman visited several job sites of the defendant  
12 which appear to have sheds or storage facilities that the  
13 defendant had access to and the defendant had working areas  
14 and tools and things of the like.

15 THE COURT: This was in 1980 to '83?

16 MR. KELLY: He's got THE time frame wrong. It's  
17 actually '81 to '84; he's missed it by a year. There will  
18 also be testimony as it relates to defendant's background and  
19 interest in use of remote control, the defendant's access to  
20 and possession of certain unique types of magnets which  
21 connect here. The defendant's, finally, the defendant's  
22 having on one occasion been involved in an explosive that he  
23 blew off one night when he was with this gentleman.

24 There's three or four different points that we intend  
25 to.

1 THE COURT: What does the storage have to do with  
2 this case?

3 MR. KELLY: Well, it is our position, your Honor,  
4 that the reasonable inference to be drawn from the fact when  
5 the defendant built the 1986 device, he didn't about build it  
6 at his house, he didn't build it at his business, he didn't  
7 build it in his parent's garage. He built it, what the  
8 evidence will be, at a picnic bench behind somebody's house;  
9 that the defendant has other areas accessible to him that he  
10 has access to and at which he has tools and can perform  
11 certain tasks. That's the relevance of it.

12 THE COURT: What he did in 1981 to '84 is relevant to  
13 what he may have done 1991, ten years later?

14 MR. KELLY: Well, it will show up to through '84 and  
15 in '86, the events the 1986 bomb, this is a fellow has who had  
16 access to these locations throughout because he's been  
17 consistently involved in the field of electrical engineering,  
18 microwave communications, and the like.

19 THE COURT: Are these places in Plymouth, Andover and  
20 such, these towers and sheds, is there any evidence that he  
21 had anything to do with his building anything other than  
22 working there on a job?

23 MR. KELLY: I don't know if I can answer that. Do we  
24 have specific evidence?

25 THE COURT: I guess what I'm thinking of is to the

1 extent that you expect to elicit from this witness that he  
2 built some kind of an explosive device, presumably not at  
3 home, is that what he's going to tell us? And to the extent  
4 that there will be evidence of a 1986 device being built at  
5 the picnic bench, it might come in as sort of modus operandi  
6 evidence. But if the sheds have nothing to do with anything  
7 except they at one time were available to him...

8 MR. KELLY: If he's got work areas at which he has  
9 access to keys and they have tools at, it would be our  
10 position that the reasonable inference to be drawn by the jury  
11 is that, especially in the light of the evidence, that there  
12 was no physical connection at the home, the garage, the  
13 worksite. This is an individual who has as access to other  
14 remote locations which he has at his disposal.

15 THE COURT: What evidence is there that he still has  
16 such access; that, indeed, those places still existed in  
17 1991? Is there going to be evidence that Andover and Plymouth  
18 still existed in 1991?

19 MR. KELLY: I don't think I can connect a specific  
20 site in Andover to specific access in 1991. What I am  
21 offering it for is this gentleman's longtime consistent  
22 practice which existed in 1986 and continued to exist up until  
23 1991, 1992.

24 MR. SEGAL: May I be heard?

25 THE COURT: Beyond that, what's the next thing he's

1 going to tell us about building a device?

2 MR. KELLY: The defendant's interest, hobby, in  
3 remote control.

4 THE COURT: That's admissible.

5 MR. KELLY: The defendant's access to or possession  
6 of a certain unique type of magnets.

7 THE COURT: That is admissible.

8 MR. KELLY: And one instance where he recalls the  
9 defendant blowing up a very large kind of explosive  
10 firecracker at night with him, where he attached it to tree  
11 and blew it up.

12 THE COURT: I think that's admissible.

13 MR. SEGAL: My concern is, and that's what  
14 Mr. --

15 THE COURT: What's the relevance of the cars, the  
16 gift of the cars?

17 MR. SEGAL: That's what I wanted to talk about.

18 MR. KELLY: It is our position here that this is an  
19 individual who's a friend of the defendant for three or four  
20 years. There's another roommate who is going to testify to  
21 the connection with the '86 bomb. This defendant provided  
22 this individual with clothing, material goods, ultimately, a  
23 very extensive car, worth several thousands dollars, the  
24 inference to be drawn by the jury, as it relates to the  
25 motive, the relationship between this defendant and Tommy

1 Shay, is that he was willing to provide items, willing to  
2 provide favors to maintain friendship or a relationship with  
3 people, up to and including the building of a device, that's  
4 the argument we wish to make, and it is something that just  
5 didn't appear out of thin air; that there are other instances  
6 of him having done this in the past, and I think it is very  
7 probative.

8 MR. SEGAL: Respectfully, my problem is Mr. Kelly  
9 goes to third base without touching first and second. I  
10 submit he will not put in any evidence that Mr. Trenkler  
11 provided anything to Mr. Shay, automobiles, this or that.

12 THE COURT: Except the bomb.

13 MR. SEGAL: Sorry?

14 THE COURT: Except the bomb.

15 MR. SEGAL: All right. Well, that's his inference.

16 The point is, he's putting in all this evidence of  
17 trips and cars with this witness, and there is no evidence  
18 that he's going to put as to Mr. Shay. This is highly  
19 prejudicial. Because then, the jury is unfairly going  
20 assume: Well, he must have provided all those things to  
21 Mr. Shay; and therefore, he made the bomb. Mr. Kelly can  
22 argue all he wants, that he made the bomb or didn't with  
23 Mr. Shay. But to put this evidence in is unfairly  
24 prejudicial, since he can't link up the similar evidence --

25 THE COURT: Except, you will argue there is no such

1 similar evidence. And what the government's point is that he  
2 is willing to do favors of various kinds for his friends.

3 Anyway, I will not strike what's already in  
4 evidence. But I think the shed evidence, you'd better move on  
5 to something else. It is sufficiently removed.

6 MR. SEGAL: Just note my objection to strike.

7 THE COURT: It is noted, and your to strike is  
8 denied.

9 MR. SEGAL: Thank you.

10 ...end of conference at the bench.]

11 THE COURT: You may proceed.

12 Q Mr. Cody, what if any hobbies or interests did the  
13 defendant have during the time that you had a friendship with  
14 him, sir?

15 A He was very much interested in remote control and  
16 electronics, gadgetry.

17 Q And what specifically do you recall about remote control,  
18 sir?

19 A He used to have a remote control jeep in his jeep that I  
20 used to play with.

21 Q When you say that, do you mean one of these little toy  
22 things?

23 A Yes. You know, a little jeep with a remote control.

24 Q And do you remember the make of this particular unit,  
25 sir?

1 A Tyco.

2 Q How is it that you remember that, sir?

3 A I took it.

4 Q Meaning what?

5 A I took the jeep from his jeep.

6 Q At some later point?

7 A Yes.

8 Q Did you ever know the defendant to possess any magnets of  
9 any kind, Mr. Cody?

10 A Yes.

11 Q And did you have opportunity to observe these items?

12 A Yes.

13 Q Where did you observe the items?

14 A Inside his jeep while he was doing his electronics on the  
15 towers.

16 Q You don't mean the little toy jeep?

17 A No, I mean the big jeep. His vehicle.

18 Q And describe, describe what you saw in this regard, sir?

19 A Sometimes I was there for hours. So I went with the  
20 jeep, to keep busy, I went through his box of supplies. At  
21 that point I found several magnets, a quarter size, with a  
22 hole in the middle, and shavings across the top. I remember  
23 the magnets because I took two of them and put them on my  
24 shoe -- on my coat string, and I kept them as well.

25 Q Did the defendant, during the time that you had this

1 friendship with him, ever demonstrate any interest in  
2 fireworks or explosives, sir?

3 A At one time when we were out, I'm not sure exactly where  
4 it was, it was at nighttime, in a remote area, with people he  
5 had known, friends of his with, me along with him, we were  
6 out, had a bonfire going, things like that. And he ran across  
7 the field and set something up and then came back and it  
8 exploded.

9 Q Describe what you heard or saw.

10 A Just a massive explosion, I could not hear for several  
11 hours. We were very close to where it had exploded. His jeep  
12 was -- I was sitting in his jeep. The other people were at  
13 the fire, which was on the other side of the jeep. So, what I  
14 heard, what I saw, was a massive explosion. My ears, I could  
15 not hear any more. There was a ringing in my ears. Much  
16 pain, and it lasted several hours.

17 Q Are you yourself, Mr. Cody, familiar with, like, fire  
18 crackers or little cherry bombs?

19 A Yes.

20 Q Was this blast, or whatever it was, was it equivalent to  
21 that?

22 A No.

23 Q In what respect was it different?

24 A It was the loudest explosion I've ever heard in my life.

25 Q On occasions when had the opportunity to socialize with

1 the defendant, Mr. Cody, did you ever have the opportunity to  
2 go with him to some place called the Blue Hills?

3 A Yes.

4 Q How many times would you, do you recall. Going there  
5 with the defendant?

6 A That didn't begin until after our acquaintance, after our  
7 friendship.

8 Q My question was, sir:

9 How many times do you recall going there with the  
10 defendant?

11 MR. SEGAL: Objection. Irrelevant.

12 A Twenty.

13 MR. SEGAL: Objection, on relevance grounds, your  
14 Honor.

15 THE COURT: Well, he's answered it. I don't know, I  
16 hope we're going on to something else.

17 MR. KELLY: We are, your Honor, we're almost done.

18 Q You said that you had a relationship with the defendant  
19 for approximately three to four years. Who ended that  
20 friendship or relationship, Mr. Cody?

21 A I did.

22 Q And how did the defendant react when you did so?

23 MR. SEGAL: Objection.

24 THE COURT: Sustained.

25 THE COURT: Hold it. The objection sustained.

1 THE WITNESS: Sorry.

2 MR. KELLY: Nothing further, your Honor.

3 THE COURT: Mr. Segal, you may cross-examine.

4 Cross-examination by Mr. Segal

5 Q Good morning, Mr. Cody. My name is Terry Segal, I only  
6 have a couple of questions to ask you.

7 I think you told us that you haven't seen  
8 Mr. Trenkler for a number of years; isn't that correct?

9 A I don't believe I told that you.

10 Q You were describing events some time ago; isn't that  
11 correct?

12 A That is correct.

13 Q All right.

14 And from what you could see, Mr. Trenkler was  
15 knowledgeable about electronics; isn't that fair to say?

16 A Very much so.

17 Q And you're aware he went to Thayer Academy and then  
18 Wentworth Institute?

19 A I'm not aware of his educational background.

20 MR. SEGAL: Thank you, sir, I have no further  
21 questions.

22 THE COURT: Anything else, Mr. Kelly?

23 MR. KELLY: No, your Honor.

24 THE COURT: Thank you, Mr. Cody, you are excused.

25 Who is next?